

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ARON SMITH,

Plaintiff,

v.

PERRY RUSSEL, *et al.*,

Defendants.

Case No. 3:21-cv-00144-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by Plaintiff Aron Smith, a state prisoner. On September 2, 2021, this Court issued an order directing Smith to file his updated address with this Court within 30 days. (ECF No. 5.) The thirty-day period has now expired, and Smith has not filed his updated address or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey  
2 a court order, or failure to comply with local rules, the court must consider several factors:  
3 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
4 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
6 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;  
7 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 In the instant case, the Court finds that the first two factors, the public's interest in  
9 expeditiously resolving this litigation and the Court's interest in managing the docket,  
10 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
11 in favor of dismissal, since a presumption of injury arises from the occurrence of  
12 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See  
13 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy  
14 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor  
15 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
16 the court's order will result in dismissal satisfies the "consideration of alternatives"  
17 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d  
18 at 1424. The Court's order requiring Smith to file his updated address with the Court within  
19 thirty (30) days expressly stated: "It is further ordered that, if Plaintiff fails to timely comply  
20 with this order, this case will be subject to dismissal without prejudice." (ECF No. 5 at 2.)  
21 Thus, Smith had adequate warning that dismissal would result from his noncompliance  
22 with the Court's order to file his updated address within 30 days.

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1 It is therefore ordered that this action is dismissed without prejudice based on  
2 Smith's failure to file an updated address in compliance with this Court's order dated  
3 September 2, 2021. If Smith wishes to pursue any of his claims, he must file a complaint  
4 in a new action.

5 It is further ordered that Smith's application to proceed *in forma pauperis* (ECF No.  
6 4) is denied as moot.

7 The Clerk of Court is therefore directed to close this case.

8 DATED THIS 12<sup>th</sup> Day of October 2021.

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12 MIRANDA M. DU  
13 CHIEF UNITED STATES DISTRICT JUDGE  
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